

ORDINANCE _____ - 2010

AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTION 138-23, MORATORIUM ON NEW TRANSIENT UNITS, TO REVISE THE DATE IN WHICH THE MORATORIUM SHALL EXPIRE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE DEPARTMENT OF COMMUNITY AFFAIRS AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, language concerning the moratorium on new transient units exists in both the Monroe County 2010 Comprehensive Plan and the Monroe County Code; and

WHEREAS, in 1996, the moratorium was enacted by the board of county commissioners with the adoption the Monroe County 2010 Comprehensive Plan and Policy 101.2.6 wherein. Policy 101.2.6 required the County to adopt a land development regulation by January 4, 1996 prohibiting new transient residential units until December 31, 2001. Policy 101.2.6 also required the County to either extend the prohibition until December 2006 or revise the Rate of Growth Ordinance (ROGO) permit allocation system to allocate a percentage of residential growth to transient units. In 2009, Ordinance #035-2009 amended Policy 101.2.6 to extend the moratorium until July 31, 2010; and

WHEREAS, in order fulfill the requirement of Policy 101.2.6 to adopt a land development regulation prohibiting new transient units, in 1999, the board of county commissioners adopted Ordinance #047-1999, thus establishing Monroe County Code Sec. 9.5-120.5. Sec. 9.5-120.5 stated: New transient residential units, such as hotel or motel rooms, or campground, recreational vehicle or travel trailer spaces, shall not be eligible for residential ROGO allocations until January 1, 2002; and

WHEREAS, in 2002, Ordinance #001-2002 amended Sec. 9.5-120.5 to read: New transient residential units, such as hotel or motel rooms, or campground, recreational vehicle or travel trailer spaces, shall not be eligible for residential ROGO allocations until December 31, 2006; and

WHEREAS, in 2007, Ordinance #001-2007 amended Sec. 9.5-120.5 to read: New transient residential units, such as hotel or motel rooms, or campground, recreational vehicle or travel trailer spaces, shall not be eligible for residential ROGO allocations until December 31, 2007 or until new Land Development Regulations are adopted to permit new transient units; and

WHEREAS, in 2008, Ordinance #003-2008 amended Sec. 9.5-120.5 to read: New transient residential units, such as hotel or motel rooms, or campground, recreational

vehicle or travel trailer spaces, shall not be eligible for residential ROGO allocations until December 31, 2008 or until new Land Development Regulations are adopted to permit new transient units; and

WHEREAS, in 2009, Sec. 9.5-120.5 was renumbered to Sec. 138-23 in 2009; and

WHEREAS, as last revised via Ordinance #003-2008, Sec. 138-23 provides a moratorium expiration date of December 31, 2008 or until new Land Development Regulations are adopted to permit new transient units. However, Ordinance #035-2009 amended Policy 101.2.6 to extend the moratorium until July 31, 2010. As policies within the comprehensive plan supersede regulations with the Monroe County Code, the moratorium remains in effect; and

WHEREAS, since the last extension of the moratorium via Ordinance #035-2009, staff has reviewed data relating to the need for additional transient units and formulated several options on how the County could permit new transient units if a need for additional transient units is demonstrated. However, additional time is required for staff to complete the review of data, sufficiently analyze said data and finalize the options for presentation to the public, planning commission and the board of county commissioners; and

WHEREAS, Policy 101.2.6 and §138-23 have never been amended at the same time to provide the same expiration date. In order alleviate confusion, staff concurrently amended both Policy 101.2.6 and §138-23 in order to provide the same new expiration date of December 31, 2011; and

NOW, THEREFORE, BE IT ORDAINED BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS:

Section 1. Sec. 138-23 shall be amended as follows (deletions are ~~stricken through~~ and additions are underlined):

Sec. 138-23. Moratorium on new transient units.

New transient residential units, such as hotel or motel rooms, or campground, recreational vehicle or travel trailer spaces, shall not be eligible for residential ROGO allocations until December 31, ~~2008~~ 2011.

Section 2. Severability.

If any section, paragraph, subdivision, clause, sentence or provision of this ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence, or

provision immediately involved in the controversy in which such judgment or decree shall be rendered.

Section 3. Conflicting Provisions.

In the case of direct conflict between any provision of this ordinance and a portion or provision of any appropriate federal, state, or County law, rule code or regulation, the more restrictive shall apply.

Section 4. Transmittal.

This ordinance shall be transmitted by the Planning and Environmental Resources Department to the Florida Department of Community Affairs as required by F.S. 380.05 (11) and F.S. 380.0552(9).

Section 5. Filing.

This ordinance shall be filed in the Office of the Secretary of the State of Florida but shall not become effective until a notice is issued by the Department of Community Affairs or Administration Commission approving the ordinance.

Section 6. Inclusion in the Monroe County Code.

The provisions of this Ordinance shall be included and incorporated in the Code of Ordinances of the County of Monroe, Florida, as an addition to amendment thereto.

Section 7. Effective Date.

This ordinance shall become effective as provided by law and stated above.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida at a regular meeting held on the ____ day of _____, 2010.

Mayor Sylvia Murphy
Mayor *pro tem* Heather Carruthers
Commissioner Mario Di Gennaro
Commissioner George Neugent
Commissioner Kim Wigington

MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

Attest: DANNY L. KOLHAGE, CLERK